IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

CRP.No. 2703 of 2002()

(AGAINST THE ORDER IN EA.186/02 IN E.P.184/00 IN OS.94/1975 OF THE MUNSIFF COURT, KOZHIKODE)

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REVN. PETITIONER: PETITIONER/JUDGMENT DEBTOR:

ARAPPOYIL PACHUKUTTY, VILLIKKAL KOTTAKUNNINMEL, NELLIKODE AMSOM, KOVOOR DESOM, KOZHIKODE TALUK.

BY ADV. SRI.P.A.AUGUSTINE(AREEKATTEL)

RESPONDENT: RESPONDENT/DECREE HOLDER:

THIRUTHIYIL SREENIVASAN, RESIDING IN KOTTOOLI AMSOM AND DESOM, KOZHIKODE TALUK.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 22/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. No.2703 OF 2002

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Dated this the 22nd day of August 2007

O R D E R

This revision petition is preferred against the common order in E.A.No.666 of 2001 and E.A.No.186 of 2002 in E.P.No.184 of 2000 in O.S.No.94 of 1975 of the Munsiff's Court, Kozhikode-II. The main application E.A.No.666 of 2001 is seeking a relief of declaration to the effect that the delivery of properties said to have been effected by the Amin is only a paper delivery and the same is not binding on the petitioner. The petition is filed under Order XXI Rules 97 to 101 of the Code of Civil Procedure. It only deals with petitions either by way of a claim application or for removal of obstruction. The execution applicant is the judgment debtor by himself. He wants to challenge the proceedings of the very same court regarding the delivery of the property alleging that it is only a paper delivery. Order XXI Rules 97 to 101 do not contemplate or envisage an enquiry into that subject matter. Therefore the court has rightly dismissed E.A.No.666 of 2001. When it is so as a corollary the Amin need not be examined and therefore the dismissal of the said application is in order.

Therefore there is nothing to interfere with the order of the court below. C.R.P. is therefore dismissed. But, I make it clear that if there are other remedies available for the parties under law, he is at liberty to proceed in accordance with law.

M.N.KRISHNAN, JUDGE

Cdp/-